

REMARKS

This amendment is for the purpose of supplementing the amendment which had been filed on March 17, 2008, and to address comments in the Advisory Action of May 8, 2008.

In the Advisory Action Examiner Arnold takes the position that “the treatment of spasms is intrinsic in the method of Petzelt et al. when treating apoplexy (stroke)”. This conclusion is apparently based on the following reasoning:

1. Petzelt et al. teaches to use xenon for the treatment of neurointoxications that are, for example, caused by stroke;
2. The secondary references (Thomas et al. and Zapol et al.) teach that spasms are linked to stroke;
3. Thus, Petzelt et al. intrinsically teaches that xenon can be used to treat spasms.

Applicants respectfully disagree with such reasoning.

The fact that Petzelt et al. teach to use xenon for the treatment of strokes does not mean that this document also intrinsically teaches to use xenon for the treatment of spasms. Although spasms can be a result of stroke, these indications are not at all necessarily connected to each other. A patient can suffer from a stroke without developing cerebral vasospasms. Therefore, it can not be generally concluded that Petzelt et al. also teach to use xenon for the treatment of vasospasms.

Petzelt et al. only teach to use xenon for the treatment of neurointoxications which can be caused by stroke. However, the person skilled in the art would not consider using xenon for the intended purpose of treating vasospasms (i.e. as a medicament that inhibits the vasoconstriction of blood vessels as a consequence of a blood vessel spasm) when learning from Petzelt et al. that

xenon can be used to treat neurointoxications. This, however, is also not suggested in the secondary reference which are not dealing with xenon.

Thus, the use of xenon as a spasmolytically active substance is neither disclosed in Petzelt et al., nor in the secondary references.


Parent claim 7 has been amended to even further distinguish over the prior art. As now amended parent claim 7 makes it clear that according to the present invention xenon is used for the intended purpose of treating vasospasms, but not for the intended purpose of treating neurointoxications as taught by Petzelt et al.

Support for this amendment can be found on page 2, first paragraph of the description according to which the spasmolytic according to the present invention comprises xenon in spasmolytic effective amounts.

In view of the above remarks and amendments this application should be passed to issue.

Respectfully submitted,

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